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Attorneys for Defendant
CITISTAFF SOLUTIONS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiff,

vs.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES,
INC.; and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**SUPPLEMENTAL DECLARATION OF
SUSAN T. KUMAGAI IN SUPPORT OF
DEFENDANT CITISTAFF SOLUTIONS,
INC.'S REPLY TO MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, MOTION FOR
SUMMARY ADJUDICATION OF ISSUES**

Date: October 23, 2019
Time: 2:00 p.m.
Courtroom: 2, 17th Floor
Judge: Hon. William H. Orrick

Trial Date: March 2, 2020
Complaint filed: October 16, 2017
Amended filed: December 26, 2018

**SUPPLEMENTAL DECLARATION OF SUSAN T. KUMAGAI IN SUPPORT OF DEFENDANT CITISTAFF
SOLUTIONS, INC.'S REPLY TO MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE,
MOTION FOR SUMMARY ADJUDICATION OF ISSUES (CASE NO. 3:17-cv-06748-WHO)**

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ATTORNEYS AT LAW
1300 CLAY STREET, SUITE 810
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(415) 357-4600
FAX (415) 357-4605

1 I, SUSAN T. KUMAGAI, declare:

2 1. I am a partner at the law firm of Lafayette & Kumagai LLP, attorneys of record
3 for Defendant Citistaff Solutions, Inc. ("Defendant") in this action, and am admitted to practice
4 in good standing in this State. I make this supplemental declaration in support of Defendant's
5 Reply to Motion for Summary Judgment or, in the Alternative, Motion for Summary
6 Adjudication of Issues. If called as a witness to testify regarding the matters stated in this
7 declaration, I would and could testify under oath competently thereto.

8 2. Attached hereto as **Exhibit "A"** are true and correct copies of the witness oath and
9 excerpts from the deposition transcript of Owen Diaz, Volume One, taken on May 22, 2018.

10 3. Attached hereto as **Exhibit "B"** are true and correct copies of the witness oath and
11 excerpts from the deposition transcript of Owen Diaz, Volume Three, taken on June 21, 2019.

12 4. Attached hereto as **Exhibit "C"** are true and correct copies of the witness oath and
13 excerpts from the deposition transcript of Monica DeLeon, taken on December 6, 2018.

14
15 I declare under penalty of perjury under the laws of the State of California and the United
16 States of America that the foregoing is true and correct. Executed this 9th day of October 2019,
17 in Oakland, California.

18
19
20 /s/ Susan T. Kumagai
SUSAN T. KUMAGAI

EXHIBIT "A"

Owen Diaz-Confidential

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

CONFIDENTIAL

Plaintiffs,

Vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. DBA TESLA MOTORS,
INC.; CitiStaff SOLUTIONS, INC.;
WEST VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.
and DOES 1-10, inclusive,

Defendants.
_____ /

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

TUESDAY, MAY 22, 2018

Reported By:
Candy Newland
CSR No. 14256
File No. 18-25470



Owen Diaz-Confidential

10:12:56 1 Madame Court Reporter, please swear the witness
2 in.

3 --oOo--

4 OWEN DIAZ,

5 having first declared under penalty of perjury to tell
6 the truth, was examined and testified as follows:

7 --oOo--

8 EXAMINATION

9 BY MS. ANTONUCCI:

10:13:12 10 Q. My name is Barbara Antonucci. I represent
10:13:14 11 defendant Tesla, Inc., dba Tesla Motors, Inc. For
10:13:19 12 purposes of this deposition, I'll refer to my client as
10:13:23 13 Tesla.

10:13:23 14 Do you understand that?

10:13:23 15 A. Yes, ma'am.

10:13:26 16 Q. I also represent CitiStaff Solutions, Inc., and
10:13:26 17 for purposes of this depo, I'll refer to them as
10:13:26 18 CitiStaff.

10:13:32 19 Do you understand that?

10:13:33 20 A. Yes, ma'am.

10:13:33 21 Q. Could you please state your full name for the
10:13:36 22 record.

10:13:36 23 A. My full name is Owen Orappio Diaz, Jr.

10:13:36 24 (Reporter Clarification.)

10:13:36 25 ///

Owen Diaz-Confidential

11:10:34	1	Q.	Do you remember what the area code was?
11:10:38	2	A.	No.
<u>11:10:43</u>	3	Q.	<u>And did you speak to someone when you called the</u>
<u>11:10:46</u>	4		<u>corporate office?</u>
<u>11:10:47</u>	5	A.	<u>Yes.</u>
<u>11:10:48</u>	6	Q.	<u>You spoke with this female?</u>
<u>11:10:50</u>	7	A.	<u>Yes.</u>
<u>11:10:53</u>	8	Q.	<u>Was that the only time you've ever spoken with</u>
<u>11:10:56</u>	9		<u>her?</u>
<u>11:10:56</u>	10	A.	<u>Yes.</u>
<u>11:10:57</u>	11	Q.	<u>And how long did you speak with her for?</u>
<u>11:11:00</u>	12	A.	<u>Three to five minutes.</u>
<u>11:11:03</u>	13	Q.	<u>And what did you discuss?</u>
<u>11:11:05</u>	14	A.	<u>That I couldn't get ahold of the Newark office</u>
<u>11:11:08</u>	15		<u>by telephone. Nobody was answering.</u>
<u>11:11:12</u>	16	Q.	<u>And why did you call the corporate office?</u>
<u>11:11:18</u>	17	A.	<u>To see if the Newark office number that I was</u>
<u>11:11:23</u>	18		<u>calling was active.</u>
<u>11:11:26</u>	19	Q.	<u>Why were you trying to get ahold of the Newark</u>
<u>11:11:30</u>	20		<u>office at that time?</u>
<u>11:11:36</u>	21	A.	<u>I don't recall.</u>
11:11:38	22	Q.	Is that all you spoke with the female at the
11:11:41	23		corporate office about?
11:11:43	24	A.	Yes.
11:11:47	25	Q.	What did she tell you about whether the Newark

1 I, CANDY NEWLAND, CSR No. 14256, certify that the
2 foregoing proceedings were taken before me at the time
3 and place herein set forth, at which time the witness
4 was duly sworn, and that the transcript is a true record
5 of the testimony so given.

6
7 Witness review, correction, and signature was

8 (X) by Code.

(X) requested.

9 () waived.

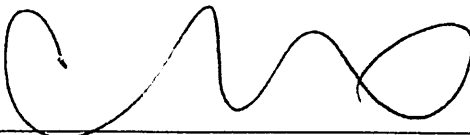
() not requested.

10 () not handled by the deposition officer due to party
11 stipulation.

12
13 The dismantling, unsealing, or unbinding of the
14 original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties nor of any of
19 the parties.

20 Dated this 29TH day of May, 2018.

21
22
23
24 

25 CANDY NEWLAND, CSR 14256

EXHIBIT "B"

OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.

June 21, 2019
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1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3
4 DEMETRIC DIAZ, OWEN DIAZ,) Case No. 3:17-CV-06748-WHO
and LAMAR PATTERSON,)

5)
6 Plaintiffs,)

7 vs.)

8 TESLA, INC. dba TESLA)
9 MOTORS, INC.; CITISTAFF)
SOLUTIONS, INC.; WEST)
10 VALLEY STAFFING GROUP;)
CHARTWELL STAFFING)
SERVICES, INC.;)
11 NEXTSOURCE, INC.;)
DOES 1-50, inclusive,)

12 Defendants.)
13
14
15

Volume III

16 DEPOSITION OF OWEN ORAPIO DIAZ, JR.

17 PAGES 293 THROUGH 441

18 SAN FRANCISCO, CALIFORNIA

19 JUNE 21, 2019
20
21
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23
24

25 REPORTED BY: MICHAEL CUNDY, CSR 12271

1 Kumagai, representing Citistaff. 09:34:02

2 MS. JENG: Patricia Jeng, from Sheppard 09:34:07
3 Mullin, representing Tesla. 09:34:08

4 MS. AVLONI: Navruz Avloni, here on behalf of 09:34:10
5 the plaintiff, Owen Diaz. 09:34:12

6 THE VIDEOGRAPHER: Would the court reporter 09:34:15
7 please swear in the witness? 09:34:16

8 09:34:34
9 Whereupon, 09:34:34

10 OWEN ORAPIO DIAZ, JR., 09:34:34
11 having first been called as a witness, was duly sworn 09:34:34
12 and testified as follows: 09:34:34

13 09:34:34
14 EXAMINATION 09:34:34

15 BY MR. ARANEDA: 09:34:34

16 Q Mr. Diaz, good morning. My name is Juan 09:34:34
17 Araneda. I'm representing Defendant nextSource, who 09:34:37
18 is now a party in this lawsuit. 09:34:39

19 I appreciate you being here today. 09:34:42

20 I'm going to be taking your deposition today, 09:34:44
21 and I understand that you have already sat through two 09:34:45
22 other sessions for your deposition; is that correct? 09:34:47

23 A Yes, sir. 09:34:52

24 Q Okay. 09:34:52

25 A Good morning to you, too. 09:34:52

OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.

June 21, 2019
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1 A I don't recall. 12:45:44

2 Q Is there any reason why you would not have 12:45:44
3 sent this note to Citistaff? 12:45:46

4 A I don't know. 12:45:55

5 MS. AVLONI: I'm going to, again, object to 12:45:56
6 the line of questioning. These are, you know, again, 12:45:57
7 very different from just follow-up questions from this 12:46:00
8 morning's session. These are, essentially, new line 12:46:03
9 of questions related, so -- 12:46:05

10 BY MS. STEVENS: 12:46:09

11 Q This morning you testified, Mr. Diaz, that 12:46:10
12 you did not tell nextSource or Citistaff about the 12:46:12
13 problems that you were having with Robert. 12:46:18

14 Is there a reason why you didn't tell 12:46:21
15 Citistaff about these problems? 12:46:23

16 A I don't know. 12:46:27

17 Q You don't know why you didn't tell them? 12:46:27

18 A No. 12:46:29

19 MS. AVLONI: Also, objection to the extent it 12:46:30
20 calls for speculation as to who was employed by 12:46:31
21 Citistaff. 12:46:35

22 BY MS. STEVENS: 12:46:37

23 Q During your -- you also mentioned this 12:46:40

24 morning that you didn't tell anyone at Citistaff or 12:46:43

25 call anyone at Citistaff about Ramon calling you the 12:46:47

1	<u>N-word or threatening you.</u>	12:46:50
2	<u>Is there any reason why you didn't tell</u>	12:46:52
3	<u>Citistaff about Ramon calling you the N-word?</u>	12:46:54
4	<u>MS. AVLONI: The same objection to the extent</u>	12:46:58
5	<u>calls for speculation as to who was employed by</u>	12:47:00
6	<u>Citistaff.</u>	12:47:02
7	<u>THE WITNESS: I didn't want to pull the race</u>	12:47:09
8	<u>card by saying something. A lot of times, especially</u>	12:47:12
9	<u>me being African-American, I have to have proof</u>	12:47:16
10	<u>instead of just saying something.</u>	12:47:20
11	BY MS. STEVENS:	12:47:23
12	Q So, Mr. Diaz, did you have an understanding	12:47:25
13	that you were employed by Citistaff?	12:47:27
14	MS. AVLONI: Calls for a legal conclusion.	12:47:30
15	You can respond.	12:47:31
16	THE WITNESS: I had an understanding that	12:47:35
17	Citistaff placed me at Tesla to work. I believe I was	12:47:37
18	an employee for Tesla.	12:47:43
19	BY MS. STEVENS:	12:47:45
20	Q You believe you were an employee for Tesla?	12:47:45
21	MS. AVLONI: Objection. Calls for a legal	12:47:48
22	conclusion.	12:47:50
23	You can respond.	12:47:50
24	THE WITNESS: Yeah. That's what it seemed	12:47:52
25	like. I got all of my direction from them.	12:47:56

OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.June 21, 2019
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1 STATE OF CALIFORNIA)
2 CITY AND COUNTY OF SAN FRANCISCO) SS:

3
4 I, Michael Cundy, CSR NO. 12271, a
5 Certified Shorthand Reporter of the State of
6 California, do hereby certify:

7 That the foregoing proceedings were
8 taken before me at the time and place herein set
9 forth; that any witnesses in the foregoing
10 proceedings, prior to testifying, were placed under
11 oath; that a verbatim record of the proceedings was
12 made by me using machine shorthand which was
13 thereafter transcribed under my direction; further,
14 that the foregoing is an accurate transcription
15 thereof.

16 I further certify that I am neither
17 financially interested in the action nor a relative or
18 employee of any attorney or any of the parties.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21
22 Dated: July 3, 2019



24 Michael Cundy, CSR NO. 12271
25

EXHIBIT "C"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN)	
DIAZ, and LAMAR)	
PATTERSON,)	
Plaintiffs,)	
vs.)	Case No.: 3:17-CV-066748
)	WHO
)	
TESLA, INC., dba TESLA)	
MOTORS, INC.; CITISTAFF)	
SOLUTIONS, INC.; WEST)	
VALLEY STAFFING GROUP;)	
CHARTWELL STAFFING)	
SERVICES, INC.; and DOES)	
1-10, inclusive,)	
Defendants.)	
_____)	

DEPOSITION OF MONICA DE LEON

Thursday, December 6, 2018

TAKEN BEFORE:

HEIDI BELTON, CSR, RPR, CRR, CCRR, CRC

CSR No. 12885

MONICA DE LEON

December 6, 2018

Page 8

1 THURSDAY, DECEMBER 6, 2018 10:05 A.M.

2 P R O C E E D I N G S

10:04:09 3 MS. AVLONI: Today is Thursday,
10:04:11 4 December 6, 2018. This is the deposition of Monica
10:04:14 5 De Leon by plaintiffs in the matter of Di-az versus
10:04:18 6 Tesla, et al., in the United States District Court,
10:04:20 7 for the Northern District of California. Case
10:04:23 8 number 3:17-CV-066748-WHO.

10:04:31 9 My name is Navruz Avloni, and I'm
10:04:34 10 videotaping this deposition on behalf of the
10:04:37 11 plaintiffs. The deposition is taking place at the
10:04:41 12 California Civil Rights Law Group, located at 180
10:04:45 13 Grand Avenue, Suite 1380, in Oakland, California.
10:04:51 14 The time is now 10:05 a.m. And this is media 1 in
10:04:55 15 the video recording.

10:04:58 16 Will all the parties in the room please
10:05:01 17 state their appearances.

10:05:02 18 MR. RUTSCHMAN: Aaron Rutschman, counsel
10:05:03 19 for CitiStaff and Tesla.

10:05:06 20 MS. AVLONI: And Navruz Avloni, here for
10:05:08 21 the plaintiffs.

10:05:09 22 Will the court reporter please swear the
10:05:11 23 witness.

10:05:11 24 (Whereupon, the witness, MONICA DE LEON,
10:05:11 25 having been duly sworn, testified as follows:)

MONICA DE LEON

December 6, 2018

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10:28:45 1 working at the -- Tesla Fremont had a discrepancy in
10:28:51 2 hours and you needed to figure out what happened
10:28:57 3 there, would you call or contact nextSource, or
10:29:00 4 would you contact Tesla, would you contact both?

10:29:06 5 MR. RUTSCHMAN: Objection; compound;
10:29:07 6 incomplete hypothetical.

10:29:09 7 THE WITNESS: In that case I would contact
10:29:15 8 nextSource, Vanessa. She would be the one that
10:29:17 9 would send me the hours for nextSource.

10:29:31 10 BY MS. AVLONI:

10:29:31 11 Q. And were there any situations where you
10:29:33 12 would contact Tesla instead of Vanessa from
10:29:37 13 nextSource to figure out discrepancy in hours of a
10:29:41 14 CitiStaff employee that was working in the Tesla
10:29:44 15 Fremont facility?

10:29:45 16 MR. RUTSCHMAN: Objection; incomplete
10:29:45 17 hypothetical.

10:29:47 18 THE WITNESS: No.

10:29:47 19 BY MS. AVLONI:

10:29:51 20 Q. You said you would contact Vanessa to
10:29:53 21 figure out hours. Did nextSource keep track of
10:29:57 22 CitiStaff employees' hours who were working at the
10:30:01 23 Tesla Fremont factory location?

10:30:03 24 MR. RUTSCHMAN: Objection; calls for
10:30:03 25 speculation.

MONICA DE LEON

December 6, 2018

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11:10:24 1 Q. I'm sorry. I mean when you started
11:10:26 2 working to when you stopped working there.

11:10:29 3 A. (No response.)

11:10:30 4 Q. Or are you still working there?

11:10:31 5 A. No, I'm no longer working there.

11:10:34 6 Q. Do you remember when you started and when
11:10:35 7 you stopped working there?

11:10:36 8 A. Stopped just barely this -- let's see.

11:10:39 9 We're in December? So I will say September --

11:10:43 10 September/October. September/October.

11:10:48 11 Q. And you started working there
11:10:50 12 approximately when?

11:10:52 13 A. A year before. So shortly -- I'll say --

11:10:59 14 Q. So shortly after you stopped working at --

11:11:03 15 A. Left --

11:11:03 16 Q. -- CitiStaff?

11:11:06 17 A. Yes.

11:11:07 18 Q. How did you like working at CitiStaff?

11:11:09 19 A. It was good. It was a great experience,
11:11:13 20 something different.

11:11:16 21 Q. And then in regards to Tesla, did you --

11:11:24 22 while you were working at CitiStaff did you interact

11:11:28 23 with any employees at Tesla?

11:11:30 24 MR. RUTSCHMAN: Object.

11:11:30 25 BY MS. AVLONI:

MONICA DE LEON

December 6, 2018

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11:11:31 1 Q. As part of your job duties?

11:11:33 2 MR. RUTSCHMAN: Objection; vague and

11:11:33 3 ambiguous.

11:11:34 4 THE WITNESS: Not any Tesla employees.

11:11:51 5 BY MS. AVLONI:

11:11:51 6 Q. Did you interact with any

11:11:53 7 nextSource employees as part of your job duties

11:11:56 8 other than Vanessa?

11:11:57 9 MR. RUTSCHMAN: Objection; vague and

11:11:57 10 ambiguous.

11:11:58 11 THE WITNESS: Yes, I did.

11:11:59 12 BY MS. AVLONI:

11:11:59 13 Q. Who from nextSource would you interact

11:12:01 14 with?

11:12:02 15 A. Deb.

11:12:05 16 Q. Do you recall Deb's last name?

11:12:09 17 A. Griskey.

11:12:17 18 Q. Do you know what Deb Griskey did for

11:12:21 19 nextSource?

11:12:22 20 A. From what I recall --

11:12:23 21 MR. RUTSCHMAN: Objection; calls for

11:12:23 22 speculation.

11:12:23 23 THE WITNESS: From what I recall, she

11:12:25 24 handled the process of bringing people onboard with

11:12:36 25 them at Tesla.

MONICA DE LEON

December 6, 2018

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04:41:05 1 e-mail after receiving your e-mail?

04:41:08 2 MR. RUTSCHMAN: Objection; calls for
04:41:08 3 speculation.

04:41:10 4 THE WITNESS: No, I do not.

04:41:12 5 BY MS. AVLONI:

04:41:12 6 Q. Did you take any action related to what's
04:41:20 7 described in Owen Diaz' e-mail regarding Ramon? Did
04:41:25 8 you take any action after he forwarded you the
04:41:29 9 e-mail?

04:41:29 10 MR. RUTSCHMAN: Objection; the document
04:41:30 11 speaks for itself.

04:41:34 12 THE WITNESS: The action was sending it to
04:41:37 13 Bruce.

04:41:37 14 BY MS. AVLONI:

04:41:38 15 Q. Did you ever follow up with Bruce
04:41:41 16 regarding Owen Diaz' complaint about Ramon?

04:41:49 17 **A. No, I didn't.**

04:41:50 18 Q. Did you ever follow up with William
04:41:53 19 Hidalgo whether he took any steps to address Owen
04:41:55 20 Diaz' concerns regarding Ramon?

04:41:58 21 **A. No, I didn't.**

04:42:00 22 Q. So the only action you took relating to
04:42:02 23 Owen Diaz' complaint about Ramon is to forward Owen
04:42:05 24 Diaz' complaint to Bruce and William; is that
04:42:08 25 correct?

MONICA DE LEON

December 6, 2018

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04:42:11 1 A. Correct. My -- when Owen Diaz first made

04:42:17 2 this complaint, he made it in October 17 of 2015 --

04:42:25 3 Q. I see that.

04:42:26 4 A. -- and I didn't receive it -- we --

04:42:28 5 CitiStaff didn't receive or wasn't aware -- I wasn't

04:42:32 6 aware of this until January 23, 2016.

04:42:35 7 Q. I see that. But once you did become aware

04:42:36 8 of it, sitting here today the only action you recall

04:42:39 9 taking is forwarding it to Bruce and William; is

04:42:41 10 that correct?

04:42:42 11 A. Yes. And letting them know about it, yes.

04:42:45 12 Q. Did you verbally talk to them about the

04:42:49 13 e-mail you forwarded to them as well? Or did you

04:42:51 14 just forward them the e-mail?

04:42:53 15 A. I had previously spoken to Bruce, but

04:43:01 16 pretty much e-mailed this to Bruce.

04:43:03 17 Q. Do you recall what you discussed with

04:43:05 18 Bruce regarding Owen's complaint about Ramon?

04:43:10 19 MR. RUTSCHMAN: Objection; misstates the

04:43:10 20 witness' testimony.

04:43:15 21 THE WITNESS: No, just -- just -- just the

04:43:18 22 situation basically. So --

04:43:21 23 BY MS. AVLONI:

04:43:22 24 Q. You just told Bruce what was in the

04:43:23 25 e-mail?

MONICA DE LEON
December 6, 2018

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1 REPORTER'S CERTIFICATION

2

3 I, Heidi Belton, Certified Shorthand
4 Reporter in and for the State of California, do
5 hereby certify:

6

7 That the foregoing witness was by me duly
8 sworn; that the deposition was then taken before me
9 at the time and place herein set forth; that the
10 testimony and proceedings were reported
11 stenographically by me and later transcribed into
12 typewriting under my direction; that the foregoing
13 is a true record of the testimony and proceedings
14 taken at that time.

15

16 IN WITNESS WHEREOF, I have subscribed my
17 name on this date:

18

19

20

21

22

H. Belton

23

Heidi Belton, CSR, RPR, CRR, CCRR, CRC
CSR No. 12885

24

25